

Minutes of a Regular Meeting

Approved 10/13/05

Town of Los Altos Hills PLANNING COMMISSION

THURSDAY, SEPTEMBER 8, 2005, 7:00 p.m.
Council Chambers, 26379 Fremont Road

cc: Cassettes (2) #9-05

1. ROLL CALL AND PLEDGE OF ALLEGIANCE

The regular meeting of the Planning Commission was called to order at 7:00 p.m. in the Council Chambers at Town Hall.

Present: Chairman Cottrell, Commissioners Carey, Kerns, Collins & Clow

Staff: Carl Cahill, Planning Director; Debbie Pedro, Senior Planner; Brian Froelich; Assistant Planner; Lani Smith, Planning Secretary

2. PRESENTATIONS FROM THE FLOOR-none

3. PUBLIC HEARINGS

For clarification, Chairman Cottrell stated that the Commissioners are required to make disclosures any time they go to a site or that they meet or hear from applicants. As part of the record he noted that all Commissioners typically visit all of the sites. In the future, the Commissioners will not have to state "I have visited the site" but only disclose if they have not visited the site and who they may have spoken with either by phone or in person.

- 3.1 LANDS OF PERRELL, 26300 Silent Hills Lane (39-05-ZP-SD); A request for a Site Development Permit for a landscape screening and lighting plan for the 9,618 square foot residence and accessory buildings approved by the Planning Commission in September, 2002 (staff-Brian Froelich).

Staff introduced this item by reviewing the conditions of approval placed on the new residence and accessory buildings approved by the Commission in September, 2002. Specifically, the conditions related to landscaping, require the property owners to plant 10 oak trees, provide reasonable screening from the Cleary residence, and no plantings to exceed the height of the residence. He provided a site plan indicating the proposed 10 oak trees noting that oak trees #1 through #6 have already been planted. The Cleary property as shown is approximately 210 feet from the Perrell residence and the residence is 35 feet higher at the pad elevation. Mr. Perrell also owns the adjacent property and has planted several oaks and pepper trees on that property to help with screening of his residence. All plantings will not grow higher than the roof line with the possible exception of oak tree #10. Staff recommended that tree #10 be planted somewhere below the 115 foot elevation line. An issue

discovered during the plan review was the steep slope behind the carriage house with a potential for erosion. The property owner has proposed additional shrubs in that area. There was also an issue raised regarding lighting of the stairways in the front and rear yard. The applicant has chosen to keep that lighting for safety and the lighting is low wattage, louvered and would not be visible from off site. Since writing the staff report, he has met with the Clearys who voiced some concerns regarding the project and will be addressing the Commission regarding those concerns.

Disclosures: Chairman Cottrell spoke to Mrs. Cleary by telephone; Commissioner Carey and Commissioner Clow spoke to Mrs. Cleary by telephone and had met the project manager on the site.

OPENED PUBLIC HEARING

Charlie Perrell, applicant, was available for questions. He was unaware of any specific concerns of Mrs. Cleary. He discussed the placement of lighting (with low wattage) on the stairs for safety and the proposed placement of the 10 trees to replace the two trees removed. They have already planted a number of oak trees to help shield the Cleary's view of the residence and cabana.

Gary Cleary, Silent Hills Lane, voiced concerns regarding drainage (on record that he still has concerns with water run-off), and the proposed screening suggesting planting a few more oak trees 5 inches in diameter and 12-15 feet in height and up the hill (placement of 5 trees suggested as shown on a site plan provided). He reviewed his plan and placement of the 4 trees to block their view of the Perrell house which is uphill from them. He also felt that the bulk of the trees already planted do not help them.

Sandy Humphries, Environment Design Committee, witnessed the removal of one of the large healthy oak trees. When reviewing the site she was appalled with the siting of the house (second story should have been set back). She stated that the original subdivision agreement provided for trees along Silent Hills Lane which are not there. A tree is needed at the front of the house. She agreed with the Cleary tree proposal which would not disrupt the Perrell's view but would break the visual impact. She felt the subdivision requirements were not completed. She also did not understand why a vineyard would be planted prior to a landscape plan being reviewed.

Nobuko Cleary, Silent Hills Lane, discussed the LeFevre subdivision and the requirement to plant trees. They can see the entire house. She requested support of their proposal for the additional trees to help their visual impact.

Tom LeFevre, Manuella Road, also owns the property opposite the project under discussion. He voiced support of the new residence.

Charlie Perrell further described the project relating to the proposed trees by the Cleary's. He felt they have already planted a large oak tree which will screen the cabana from the Cleary's. The landscape plan indicates low shrubs which will cover the first few feet of the cabana wall. Also they have already planted two trees by the pathway over two years ago. They will grow bigger, wider, taller and thicker in terms of foliage. He noted that the landscape screening is not all in place. He had planted some trees earlier to give the Clearys some screening during construction. The landscape plan indicates additional trees that will provide further protection from the path and the view looking up at the house. He does not want to plant the additional suggested trees as he felt it did not make sense with the trees already in place and being proposed.

Commissioner Kerns asked if he was willing to put one or two trees in the area that is devoid of landscape in a place that would not take away from his view but would provide the Clearys with some partial screening.

Mr. Perrell stated that he would be willing to go out and review the area. Mrs. Perrell discussed the proposed olive trees considering a few more to help with screening which would be in keeping with their landscape character. She objected to being told as land owners that they must plant 4 or 5 more oak trees. They have spent much time working out their landscape plan with their landscape architects and trying to take into account everyone's criticism of what view corridors they have and what they do and do not want. Mr. Perrell indicated that they were not aware of any issues with the proposed landscaping (the Cleary's concerns) until this evening.

Mr. Cleary was willing to work with the Perrells regarding screening. It was noted by Commissioner Clow that the applicants have already planted one tree being requested by the Cleary's.

CLOSED PUBLIC HEARING

Commissioner Clow felt, when visiting the site, it was very well screened noting that the oaks are young and will get larger. He would approve the landscape plan as submitted.

Commissioner Collins suggested settling the landscaping issues tonight and not sending the applicants and neighbors out to settle this themselves. She thought the applicants have done a good job in making a good effort to screen their property. However, the Clearys have a good point in that when they are standing in their house, you have a very different feeling. She felt a compromise should be made to help out the Cleary's by taking a look at the four trees being requested as a few key trees (two) would really improve their situation.

Commissioner Kerns felt that the applicants have done an excellent job with the plan although there are some areas needing additional trees. He did not feel five additional trees was the answer suggesting two additional olive trees in the area of concern. He felt that the \$5,000 landscape deposit was low considering the size of the project recommending a \$25,000 deposit.

Commissioner Carey questioned staff regarding the subdivision requirements that have not been followed. Planning Director Cahill stated staff could review the subdivision conditions of approval. Normally this is the responsibility of the subdivider, Mr. LeFevre, in this case. The subsequent property owners are not saddled with subdivision conditions on top of all of the conditions already on the property (house and landscaping). Staff can look into it and report back to the Commission. Regarding the slope on the property, he noted that the property already has conservation easements on it, so there was no need for additional open space easements. He further discussed the concern regarding the vineyard in a conservation easement indicated staff had researched it and it is specifically allowed in the agreement. Regarding drainage, staff noted this was just a landscape screening plan. The grading and drainage was approved as a part of the new residence. Staff could have the engineers review it however there is an approved plan.

Commissioner Carey felt that the site and the house were breathtaking. He felt it was reasonable to request two more trees (olive trees).

Chairman Cottrell agreed with his fellow Commissioners in that the landscaping plan is well done. He also felt two more olive trees would solve the neighbors concerns.

MOTION SECONDED AND PASSED: Motion by Commissioner Kerns and seconded by Commissioner Clow to approve a request for a Site Development Permit for a landscape screening and lighting plan for the 9,618 square foot residence and accessory buildings approved by the Planning Commission in September, 2002, Lands of Perrell, 26300 Silent Hills Lane, with the following additions/changes to the recommended conditions of approval: Condition #3, \$5,000 landscape deposit increased to \$25,000 landscape deposit; and add two additional trees (olive) located at the two middle red squares shown on the diagram provided by Mr. Cleary.

AYES: Chairman Cottrell, Commissioners Collins, Carey, Clow & Kerns
NOES: None

This approval is subject to a 23 day appeal period.

- 3.2 LANDS OF DIGIOVANNI & SANDER, 12380 Hilltop Drive (104-05-ZP-SD-VAR-CDP); A request for a Conditional Development Permit for a 4,647 square foot two-story new residence (maximum height 27' feet), and a variance to allow the house to encroach up to 10' in the side yard setbacks, and to allow surface parking to encroach up to 26' in the front and side yard setbacks. The lot area is 0.49 acre and an existing legal-nonconforming swimming pool encroaches up to 17.5' in the side and rear yard setbacks (staff-Debbie Pedro).

Staff introduced this item by reviewing the staff report noting that the applicants are seeking approval of a variance to allow the new residence and parking areas to encroach within the front and both side yard setbacks (1,251 square feet of floor area on the lower floor will encroach within the east and west setbacks by up to 10 feet with two additional outdoor parking spaces located in front of the new house and encroach up to 26 feet in the front and side yard setbacks.). She referred to the Lands of Eshgi/Doorodian on Fremont Road which was denied by the Planning Commission in January 2005 for a similar variance request for building setbacks. The applicants returned to the Commission with a redesign of the home that was completely outside of the setbacks and was approved in April, 2005. This was also a Conditional Development Permit lot. Another recent CDP lot was the Lands of Unlu on Deerfield Drive. In this case, the applicant proposed a two story house that was designed entirely outside of the setback. In both of these cases, the applicants were granted a variance for surface parking to be located in the setback. The Hilltop Drive property is not unique in this neighborhood because there are four other lots with similar size, shape and topography. Granting a variance for a building setback on a flat, rectangular lot with no other topography constraints such as creeks, oak tree coverage or steep slope would set a precedent and open the possibility of future requests for building setbacks based solely on substandard lot size. She further noted the receipt of e-mails after the public notice was issued; one for and one against the project. Copies were provided to the Commission for review. For clarification, she noted that portions of the main house were constructed with permits.

Commissioner Collins felt the staff report was excellent and it would be a good guide for future planners.

Disclosures: Chairman Cottrell had met with the applicants months ago, looked at the plans and did not disclose how he might vote; Commissioner Clow had met with the applicants on the site; Commissioner Carey had spoken to the applicants by phone; Commissioner Kerns had also met with the applicants months ago; Commissioner Collins visited the site.

OPENED PUBLIC HEARING

Fiona Sander, applicant, introduced herself and Joe Digiovanni. She indicated they had sent 32 letters out to the neighborhood regarding this proposal with 13 positive responses with 22 supporting signatures. The input received was used to revise their plans. Also, the front, rear and both side neighbors support their project. She reviewed their substandard lot indicating that the left and right neighboring properties are the same size. She reviewed the benefits of the proposed development as follows: minimal construction impact; improve drainage; MDA brought into conformance; improved neighbor privacy; incorporate solar energy; and the design is consistent with the neighborhood. The neighbor privacy points are: no second floor side facing windows; second story placed out of side setbacks; first floor 50 feet from front property line; first floor 72 feet from the rear property line; the existing landscape screening preserved and new landscape screening created; and the rear and side setback bulk has been reduced. She continued by discussing the variance findings including the following: conforming envelope requires either awkward footprint or removal of at least three mature trees; inability to reorient the property for improved front elevation; narrow substandard lots

create design challenges that larger lots do not face; and conformance necessitates a structure aesthetically unpleasing and uncharacteristic of neighborhood. She touched on the similarities and differences of their site and the Lands of Eshgi/Doorodian. She concluded by stating a variance should be reviewed on an individual basis. They understand that a constrained lot does not necessitate a hardship; they are just asking for what is already there and has been there for 50 years.

Scott Fors, grew up at 12401 Hilltop Drive directly across from this property. H read the letter that was included in the staff report (attachment 9) from his mother who was unable to be at the meeting voicing strong support of the project.

Bob Cole, felt he was clearly the most effected and impacted neighbor living directly next door. He was delighted to see the proposed changes to this property voicing support and requesting approval.

Richard Fimmel, Hilltop Drive, voiced support of this project.

Bob Lattes, property owner directly behind the proposed site, felt this proposal will be an improvement to the site by retaining one of the trees which provides screening from this residence and by removing all of the outer buildings which are very close to the property line which impacts his property. Finally, removing the concrete from the back yard will have a wonderfully positive effect (noise issue). He voiced support of this project and asked that it be approved now.

Tom Hogan, 12435 Hilltop Drive, previously reviewed the plans carefully voicing support which will be a major improvement to the neighborhood.

Mike, property owner at Hillview and Hilltop Drives, voiced support of the proposed project.

Sandy Humphries, Environmental Design Committee, voiced objection to the proposal. The MDA/MFA does not fit on these substandard lots and is actually more coverage than would be allowed on a one acre flat parcel.

CLOSED PUBLIC HEARING

Commissioner Carey felt the applicants have worked well with their neighbors. He felt there were obvious benefits to the neighborhood. However, the overriding concern is that there is not a hardship that necessitates a variance. The Commission has been very clear on this as they need to demonstrate some type of hardship to allow a variance to encroach into the setbacks on substandard lots or otherwise. Granting a variance runs the risk of not only everyone wanting one on substandard lots but there would not be much reason not to approve a variance on a standard lot. The reason the variance is asked for here is that the design of the house is not what is preferred if the house is to sit within the building envelope. This is not enough of a hardship to grant a variance. The Commission needs to be consistent in the application of the ordinances.

Commissioner Kerns has never seen a project with such neighborhood support. The applicants have done a very good job working with the neighbors. He voiced support of the application. This is actually the kind of house that is ideal with the second story set back from the first story. They have done amazing things in terms of removing things in the setback already, and reducing the development area to be conforming. What they are proposing to do is to encroach less into the setback than what already exists. Their design saves as many trees on the property as possible. Comparing this to the Eshgi property is not quite the same. He supports this project and did not feel this would set a precedent because it is a constrained lot.

Commissioner Collins concurred with Commissioner Carey. She could not support this project as a substandard lot does not create a hardship and would create a precedent. This is similar to the Eshgi property and they should be consistent. She felt the applicants could design a house that fits outside of the setbacks. She had researched State code regarding variances and in every case neighborhood opposition or support has no bearing on a variance. She could find no reason to support this project based on neighborhood support.

Commissioner Clow agreed. This is a compelling case but they need to adhere to policies. The applicants have done an outstanding job with this presentation. He was sure that a new proposal will be more attractive than this one, perhaps a house that is smaller and will fit within the guidelines. This is not an unusual situation and he cannot support this application.

Chairman Cottrell agreed. If this was approved, there are four other lots who will be asking for the same thing. He wondered how much the applicants tried to fit a different design within the setback lines. He did not feel that the model presented is representative of good architectural design on a small lot. He could not support this project and would like to see a redesign that fits within the setbacks.

Brief discussion ensued regarding the options of denial or a continuance.

Mr. Digiovanni indicated that this is a hard decision for them since they have been working on the design for some time and they were guided not to remodel. They would like a continuance and most likely go down the path of just a remodel. After further discussion, the applicants requested a continuance to the October 13th Planning Commission meeting to allow them time to decide what direction to take (continuance or denial). The appeal process was also discussed.

MOTION SECONDED AND PASSED: Motion by Commissioner Carey and seconded by Commissioner Clow, at the applicants request, continued the request for a new residence and variances to allow the house and parking to encroach into the front and side setbacks; Lands of Digiovanni and Sander, 12380 Hilltop Drive, to the October 13, 2005 Planning Commission meeting.

AYES: Chairman Cottrell, Commissioners Collins, Clow & Carey
NOES: Commissioner Kerns

3.3 LANDS OF LOS ALTOS HILLS, 27400 PURISSIMA ROAD (58-04-CUP);
ANNUAL REVIEW OF THE CONDITIONAL USE PERMIT FOR THE
TOWN'S ATHLETIC FIELDS AND RIDING RING ON PURISSIMA ROAD
(staff-Debbie Pedro).

Staff introduced this item indicating this was the first annual review for the Recreational facilities at the Town's athletic fields and riding ring on Purissima Road. Nothing has changed in the past year so the conditions of approval for this Conditional Use Permit remain the same.

Commissioner Kerns indicated that currently this is up for an annual review period asking if it could be extended to more than one year. Staff suggested submitting an annual verbal report for the Commissioners review.

OPENED PUBLIC HEARING
CLOSED PUBLIC HEARING

MOTION SECONDED AND PASSED BY CONSENSUS: Motion by Commissioner Kerns, seconded by Commissioner Carey and passed by consensus to submit the staff report to the City Council finding the parks and recreation facilities to be in compliance with the Conditional Use Permit and to have staff, in the future, provide the Commission with a yearly verbal report of the annual review of the conditional use permit for the Town's athletic fields and riding ring, 27400 Purissima Road.

4. OLD BUSINESS-none

5. NEW BUSINESS

5.1 Draft Fence Ordinance (Ad Hoc Committee)

This item was introduced by the Planning Director indicating this was in response to recent concerns regarding fence requirements. The City Council formed an Ad Hoc Planning Committee authorized to review the current fence ordinance and develop proposed changes. The Committee has formulated its recommendations which are incorporated in the proposed fence ordinance for review and comments. Two members of the Ad Hoc Planning Committee are Commissioners Clow and Carey.

Discussion ensued by reviewing the following: "(a) Purpose", whether the fence ordinance should provide a minimum standard of quality of a fence and that the open rural quality is the standard; #7, "Any fence placed on slopes greater than 30% shall conform to the requirements specified for an open space/conservation easement perimeter fence (a 4 1/2 foot fence does not keep out anything); (h) would allow Exceptions with the three (3) findings (appears to be over restrictive); concerns with last paragraph of (h) Exceptions, "Any fence proposed to exceed a height of 6 feet or encroach in required setbacks in required setbacks shall require a variance

in accordance with the provisions of Article 11 of the Zoning Ordinance” however athletic fences are allowed up to 10 feet (needs clarification); (e) (3), “more than 1,000 linear feet” questioned; fences on property lines (notice); (g) “Any fence, wall, gate or column constructed without a lawfully issued permit is a violation of the Municipal Code and shall be subject to the provisions and remedies pursuant to Title 1, Chapter 2 or the Municipal Code” questioned (fences that are illegal non-conforming are not grandfathered in by definition); and total perimeter fences.

The comments will be considered by the Ad Hoc Committee and the final proposed ordinance will be returned to the Planning Commission for a noticed hearing.

6. REPORT FROM THE CITY COUNCIL MEETING

6.1 Planning Commission Representative for August 18th-Commissioner Kerns, reported on the following: update on General Plan review; Byrne Preserve repairs; major project paths; plants and plant maintenance at Tow Hall; approved ordinance establishing storm water pollution prevention measures for land development projects; and the Environmental Initiatives Committee looking at other communities and the possibility of limiting the maximum size of a home (presentation to follow).

6.2 Planning Commission Representative for September 1st, Carl Cahill, reported on the following: Lands of Evershine and Lands of Hitz appealed (pathway issues).

6.3 Planning Commission Representative for September 15th -Commissioner Clow

6.4 Planning Commission Representative for October 6th -Commissioner Cottrell

7. APPROVAL OF MINUTES

7.1 Approval of August 11, 2005 minutes

PASSED BY CONSENSUS: To approve the August 11, 2005 minutes.

8. REPORT FROM FAST TRACK MEETING-AUGUST 23, 2005

8.1 LANDS OF ASKARI AND ASKARINAM, 27630 Via Cerro Gordo (94-05-ZP-SD-GD); A request for a Site Development Permit for a 4,997 square foot new residence (maximum height 27 feet) (staff-Debbie Pedro). Approved with conditions.

8.2 LANDS OF MAHONEY, 12139 Foothill Lane (96-05-ZP-SD-GD); CEQA Status: exempt 15303 (a). A request for a Site Development Permit for a new 5,361 square foot new residence where the maximum permitted floor area is 5,374 square feet (maximum height approximately 24 feet). The proposal includes a 1,683 square foot basement (Floor Area exempt) and replacement of an existing pool (staff-Brian Froelich). Approved with conditions.

9. REPORT FROM SITE DEVELOPMENT MEETING- SEPTEMBER 6, 2005

- 9.1 LANDS OF FERRARI, 12100 Old Snakey Road (151-05-ZP-SD); A request for a Site Development Permit for a landscape screening and erosion control plan for the new 4,944 square foot, two-story residence approved August 20, 2002 (staff-Brian Froelich). Approved with conditions.

10. ADJOURNMENT

The meeting was adjourned by consensus at 9:40 p.m.

Respectfully submitted,

Lani Smith
Planning Secretary
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